

**APPROVED MINUTES
ALUM ROCK ELEMENTARY SCHOOL DISTRICT
2930 Gay Avenue
San Jose, CA 95127**

**MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES
of the Alum Rock Union School District
Held on Thursday, July 13, 2017, 5:30 p.m. at the Alum Rock Union School
District Office Board Room, 2930 Gay Avenue, San Jose, CA 95127
Meeting #01-17/18**

1. OPEN SESSION

1.01 Call to Order / Roll Call

President Khanh Tran welcomed everyone in the audience and led the Pledge of Allegiance. President Khanh Tran called the Board Meeting to order at 5:36 p.m. followed by Roll Call.

Board Members Present:

Khanh Tran	President
Andrés Quintero	Vice-President
Esau Ruiz Herrera	Member
Karen Martinez	Member

Board Members Absent:

Dolores Marquez-Frausto	Clerk
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Administrative and Support Staff Members Present:

Dr. Hilaria Bauer	Superintendent
Rene Sanchez	Assistant Superintendent, Instructional Services
Kolvira Chheng	Assistant Superintendent, Business Services
Marie Sanchez	Sr. Executive Assistant, Superintendent's Office
Angel Rodriguez	Executive Assistant/Communications Support
April Ramirez	Executive Assistant, Human Resources

President Khanh Tran announced that he was moving some agenda items up prior to Closed Session. The first item would be ***Agenda Item 2.01 Presentation/Report Update from Superintendent Jon Gundry, Santa Clara Office of Education.***

2. SPECIAL PRESENTATION

2.01 Presentation/Report Update

Superintendent Hilaria Bauer introduced Superintendent Jon Gundry, Santa Clara County Office of Education.

Superintendent Jon Gundry, Santa Clara County Office of Education, reported that he would be presenting an overview of an audit report written by the California Fiscal Crisis and Management Assistance Team, known as FCMAT. Superintendent Jon Gundry reported that copies of the report were made available to the audience in English and Spanish.

He reported that on October 16, 2016, he received a complaint that there were a number of financial and contractual irregularities that could potentially be considered fraud, misappropriation of funds, or some other illegal practice associated with the use of bond funds intended to make repairs and new construction in the District.

Superintendent Jon Gundry reported that the first allegation was that the contractor, the Del Terra Group, billed the District for work not performed. The second allegation was that Del Terra double-billed the District by billing for program management and then billing again for construction management. This created a situation in which Del Terra was hired in a second contract to oversee the work they were doing under the first contract. He stated that as County Superintendent, it is his responsibility to follow up on such complaints, and for that reason, he engaged FCMAT to investigate the allegations. FCMAT produced their final report on June 9, 2017. He clarified that he did not conduct the audit, nor did he make any of the recommendations contained in the report. His only role was limited to ordering the audit, making a recommendation to the State Superintendent of Schools regarding the fiscal independence of the District, and reporting the findings of the audit at this meeting. He stated that neither FCMAT or himself has the authority to enforce any of the recommendations contained in the report. Whether the District chooses to adopt the recommendations contained in this report, it is in the hands of the Alum Rock School District Governing Board.

Superintendent Jon Gundry briefly spoke on the following:

Contract Issues

Superintendent Jon Gundry stated that one of the most significant findings of the audit is that the contract language used in the various contracts with Del Terra is not standard to the construction industry. The report states that the contract language is, ***“highly unusual in a program of this kind, and does not allow for the adequate oversight and accountability of the contractor of the District and for the use of public funds”*** (page 27). It also states that, ***“the lack of accountability over the contractor has partly prompted the allegations of fraud and erodes public trust in the District’s ability to spend public funds prudently and legally”*** (page 20).

2. SPECIAL PRESENTATION *(continued)*

2.01 Presentation/Report Update

Superintendent Jon Gundry reported that FCMAT reviewed the District's Board Policies and Administrative Regulations regarding construction contracts and found that the District's policies and regulations met industry standards.

Contract Issues

Superintendent Jon Gundry reported that because of the large amounts of money that are typically spent in a Bond Program, a Citizen's Oversight Committee (COC) is required by law to add an additional layer of accountability for the expenditure of public money.

Role of the Board

Superintendent Jon Gundry reported that the FCMAT Report was very clear that the responsibility for the lack of accountability for Del Terra lies with the Governing Board. He reported that typically members of a Governing Board do not involve themselves in the administration of construction contracts – they leave that to the District staff; however, in this case, the report states that some members of the Board were personally involved with the bidding and contract management of the Del Terra contracts.

Role of the Staff

Superintendent Jon Gundry reported that the lack of operational experience was compounded by the culture of fear and intimidation that surrounded any business dealings with Del Terra. The staff dealt with all other contractors according to Board Policy and the District's Administrative Regulations. In this case, Del Terra was different due to the involvement of Board Members.

Recommendations

Superintendent Jon Gundry reported that there are more than 60 recommendations contained in the report which could be used as a plan for moving forward with proper oversight of the remaining bond projects. He stated that all of the recommendations should be seriously considered. He only highlighted 5 of the 60 recommendations.

1. Require all project files and documents to be immediately turned over to the District in an organized fashion
2. Renegotiate the program management contracts
3. Enforce all aspects of the contract scope of work
4. Empower an independent Citizen's Oversight Committee (COC)
5. Terminate the construction management contract with Del Terra in order to end the practice of having Del Terra oversee its own work. Payments made to Del Terra should be scrutinized in order to determine if overpayments have been made

2. SPECIAL PRESENTATION *(continued)*

2.01 Presentation/Report Update

Conclusion

Superintendent Jon Gundry reported that as County Superintendent, it is not his role to determine whether fraud has occurred or not. His responsibility under these circumstances is to refer this FCMAT report to the Santa Clara County District Attorney for further inquiry, which he has already done.

Lastly, Superintendent Jon Gundry urged the Board to work cooperatively with Superintendent Hilaria Bauer, District Staff, the Citizen's Oversight Committee, and the County Office of Education to ensure that all future Bond Projects are high quality and that public monies are spent in a transparent manner that benefits the Alum Rock Community, and most importantly, the children who attend the schools.

Superintendent Jon Gundry commented that he has confidence in Alum Rock and has given much support to this district. He highlighted the Cinema and the STEAM Academy Projects. Superintendent Jon Gundry stated that being fiscally independent does not mean the County Office makes any fiscal decisions for the District, but will only run the finances through their system. The transition will take approximately one year. He did comment that in the 25 years this law has been in place, this will be the first time any District has resisted!

Public Comments:

1. Female speaker (no name given): A community member that wanted to know which Board Members had received the contributions?
2. Ray Mueller: COC Chair, gave thanks to Superintendent Gundry for his report on the FCMAT findings. He asked if the SCCOE could provide support and training to the COC?
3. Jocelyn Merz: AREA President commented that she is happy that Alum Rock will be under the SCCOE for fiscal dependency since AREA has had consistent issues with payroll throughout the years
4. Female speaker (no name given): A community member that commented that all schools should have air conditioning and the basic needs to be in safe schools. She commented that she felt the Board controlled the Bonds Committee.
5. Alison Cingolani: Russo/McEntee parent gave thanks to Superintendent Jon Gundry for his report on the FCMAT findings.

2. SPECIAL PRESENTATION *(continued)*

2.01 Presentation/Report Update

Board Comments:

Member Esau Ruiz Herrera gave thanks to Superintendent Jon Gundry for his report on the FCMAT findings. He welcomes the assistance from the County Office. He stated that he, personally, takes the recommendations seriously; however, he was concerned and disappointed in the tone of the FCMAT report. He noted that there was not one finding that there had been any fraud or malice in the bond project. He commented that he is aware that the Board is required by law to provide an official response to the County Office within the next two weeks.

Vice-President Andrés Quintero commented that he was the Board Member that did not support the Del Terra contract back in November/December and continues to not support it.

President Khanh Tran stated that back in January, we did post the position for Internal Auditor; however, the SCCOE Superintendent requested to Superintendent Hilaria Bauer to hold off on this posting.

Additional Public Comments:

1. Richard Alvarez: Member from the Bond, Facility, and Finance Committee reported that a representative from Del Terra had been present at every one of their committee meetings and he felt they had been transparent.
2. Chris Ron Lieu: Attorney from the Austin & Bird Law Firm representing Del Terra reported that there are several errors in the FCMAT report. He reported that many allegations have been made about Del Terra during the preceding months; however, no one from the SCCOE, the District, or FCMAT investigators have attempted to directly communicate with Mr. Luis Rojas, President and CEO of Del Terra, to discuss the numerous unsubstantiated and false allegations which have been leveled against them. He said that Del Terra welcomes the District Attorney to do an investigation.
3. Alison Cingolani: Parent from Russo/McEntee asked administration if the report was being translated into Spanish and Vietnamese. Superintendent Hilaria Bauer replied with a yes.
4. Jaime Perez: Russo/McEntee parent that commented that he was a returning parent to this District. He commented to the Board that they are supposed to be accountable. Our buildings stink, his son has to bring his own baby wipes. The District is falling apart!
5. Female speaker (no name given): Somos parent that commented about parent participation and engagement. The District needs sound fiscal management – all the money we are spending on legal fees, it is money that is being taken from our students!

2. SPECIAL PRESENTATION *(continued)*

2.01 Presentation/Report Update

Additional Public Comments:

6. Niche Dominguez: Parent that commented that the District needs a Board to trust. We are supposed to be here for the student. Our students are our future!

7. COMMENTS AND COMMUNICATION

7.01 Teamsters

There were no representatives from Teamsters at this time.

7.02 CSEA

There were no representatives from CSEA at this time.

7.03 Alum Rock Administrator's Association (ARAA)

Raquel Katz, Ryan Principal, and Maria Martinez, Vice-Principal at Adelante 1, spoke about the great leadership of Superintendent Hilaria Bauer. Raquel Katz commented that Superintendent Hilaria Bauer has made our students, community, and educators feel empowered in a time that we needed it the most – our parents and community trust her. Maria Martinez gave special thanks to Superintendent Hilaria Bauer for giving her support and believing in her.

7.04 Alum Rock Educator's Association (AREA)

Jocelyn Merz, AREA President, commented that Human Resources has been operating in a very dysfunctional manner for many, many years now. She has never received as many complaints as she has this past year. The District has spent close to \$700,000 in legal fees and almost half of that just to help with the Human Resources Department. She did give special credit to Ms. Irma Barahona for her professionalism. She asked the Board to please accept the Superintendent's recommendation when discussing and taking action for the positions of Interim Assistant Superintendent and Director of Human Resources. Human Resources is the "hub" of the District. We all need to work together!

7.05 Superintendent

Superintendent Hilaria Bauer stated that one of the best things about Alum Rock was that we are a family and one of the worst things is sometimes we act like a family. We need to allow each other some space and opportunity to be compassionate with each other...whether

7. COMMENTS AND COMMUNICATION *(continued)*

7.05 Superintendent

we agree or not agree with something, we are all family. At the end of the day, we have to think we are all acting with the best of intention and we need to look at how we are going to solve the problem. We need to be resilient and mindful because at the end of the day, all we have is each other. Superintendent Hilaria Bauer gave special thanks to the Board for giving her an opportunity to serve the Alum Rock community.

There was standing ovation by the audience!

4. RECONVENE TO OPEN SESSION

4.03 Agenda Review and Adoption

Trustee Karen Martinez asked to move *Agenda Items 13.01 through 12.12 after Closed Session*. These agenda items included the following:

13.01 The Board will review and discuss the contract for Fagen Friedman and Fulfrost

13.02 Termination of the Mathson Fire Emergency

13.03 Legal Counsel Annual Budget Expenditure

13.04 Board will discuss the possible Termination of the Rehon & Roberts Contract

13.05 An Update on the Board's Request for a Facilities Assessment

13.06 Board Retreat Update

13.07 The appropriate roles of the Board President, Vice-President, Clerk, and other Trustees

13.08 Reconstitute the Bond, Facilities, and Finance Committee

13.09 Reprioritization of Alum Rock Union School District's Bond Projects

13.10 Program and Construction Management Agreement for Measure I-Terminate Contract

13.11 Construction Management Agreement, Measure J-Terminate Contract

13.12 Program Management Agreement, Measure J-Terminate Contract

MOTION #01-01 by Trustee Karen Martinez to accept and approve the agenda as amended. There was no second made to this motion.

MOTION #01-01 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstension.

6. PUBLIC HEARING

6.01 Public Hearing: Disclosure of major provisions of the Collective Bargaining Agreement with CSEA

Superintendent Hilaria Bauer read the Public Hearing to the audience.

President Khanh Tran opened the Public Hearing at 7:18 p.m.

1. OPEN SESSION *(continued)*

1.02 Announcement and Public Comment Regarding Items to be Discussed in Closed Session

Superintendent Hilaria Bauer announced the items that would be discussed in Closed Session.

President Khanh Tran stated that public comments would be limited only to 1.5 minutes per speaker.

Public Comments:

- 1) Ray Mueller and Laura Aguirre – COC Chair and Community Member who thanked Superintendent Hilaria Bauer for ‘healing the District’. They both commented that Superintendent Hilaria Bauer makes the Board look good!
- 2) Alison Cingolani - Russo/McEntee parent who commented that it is clear how much support Superintendent Hilaria Bauer has and we have seen the programs she has brought to the District. She also commented that she certainly hopes that the Board can take into account the broad support of this community.
- 3) Maria Martinez -- Parent and community member that commented that she has been present at various board meetings and has heard about the loss of money due to lack of enrollment. She commented that some of the Board Members say that parents do not know how to read budgets and contracts, but the Board Members are wrong – parents have learned to read budgets and contracts! Lastly, she commented that the Board needs to understand their role as Board Members!
- 4) Mr. Bejarano – Sheppard parent that commented that Superintendent Hilaria Bauer has provided true leadership and has stood as a champion...we stand behind her...just as you are evaluating her...we are evaluating you!
- 5) Camille Fontanilla – Somos Mayfair Director stated that this community is here to tell the Board that it is the passion that this community has when disrespect is shown to the community – then disrespect is shown back! She also commented that the official statement we are prepared to make is that we believe parents and community members have the right to hold people accountable.

1. OPEN SESSION *(continued)*

1.02 Announcement and Public Comment Regarding Items to be Discussed in Closed Session

- 6) Flor de Leon – President of the District Advisory Committee commented that she really cares about the students—she wants to see the District make better decisions for the better—we need to start talking better about our students’ education, how we are going to keep our teachers... she commented that she will do her best to be present at the board meetings and hopefully the Board will listen to her voice and maybe invite community members to have dialogue.
- 7) Sharon Fontaine – CSEA President stated that she was also in agreement with what President Jocelyn Merz had commented on. CSEA is in full agreement and support of the Superintendent’s recommendation for the Human Resources Interim Assistant Superintendent and the Director of Human Resources. She also gave thanks to the Board for considering their agreement.

1.03 The Board Will Adjourn to Closed Session

The Board recessed to Closed Session at 7:38 p.m. President Khanh Tran announced that the Board would reconvene to Open Session at approximately 8:30 p.m.

4. RECONVENE TO OPEN SESSION

4.01 Call to Order / Pledge of Allegiance

The Board reconvened to Open Session at 9:26 p.m. President Khanh Tran welcomed everyone.

Superintendent Hilaria Bauer reported that the Board and she were able to agree to the process that would be used to follow for her evaluation.

4.02 Report of Action Taken in Closed Session

Superintendent Hilaria Bauer reported that the Board took action ***under Agenda Item 3.04 Conference with Legal Counsel—Anticipated Litigation by a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention, to approve a settlement agreement with CTG Construction.*** The major provisions of the agreement are the following:

1. CTG will be permitted to withdraw its bid on the Mathson Multi-Purpose Project;
2. Nonetheless, CTG shall, without compensation, perform and complete exterior paint and signage on Mathson Middle School, which is valued at \$150,000, as specified in CTG’s bid of the Mathson Multi-Purpose Project
3. CTG shall perform work on the Mathson restroom project in accordance with its bid on that project

4. RECONVENE TO OPEN SESSION *(continued)*

4.02 Report of Action Taken in Closed Session

4. CTG shall pay the District \$10,000 for District's attorney fees and administrative staff's time incurred in connection with the District permitting CTG to withdraw its bid on the Mathson Multi-Purpose Project; and
5. CTG agrees not to submit a bid for the Mathson Multi-Purpose Project if, and when, the bid for that project, is issued or reissued by the District

Superintendent Hilaria Bauer reported that under *Agenda Item 3.05, the Board took action to appoint Ms. Doris Lopez as the next Payroll Manager effective August 14, 2017. The vote carried with 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no opposition.*

The Board took action to appoint Mr. Jonathan Natividad as Interim Elementary Principal at Hubbard due to a resignation, effective July 14, 2017. The vote carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

The Board took action to appoint Mr. Carlos Moran as the Director of Human Resources at the District Office effective July 17, 2017. The vote carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

The Board took action to appoint Mr. Jess Serna as the Interim Assistant Superintendent of Human Resources effective July 17, 2017. The vote carried with a vote of 3 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and 1 abstention.

5. PUBLIC MEMBERS WHO WISH TO ADDRESS THE BOARD

5.01 Public Members who wish to Address the Board

- 1) Ray Mueller – COC Chair commented that he would like to request the Bond, Facilities, and Finance Committee be held at a later time when community members can attend. He also commented that he would like the Board to consider having Closed Session the day prior to all scheduled Board Meetings in order to accommodate everyone.

13. SUPERINTENDENT / BOARD BUSINESS

13.01 The Board will review and discuss the Contract for Fagen Friedman and Fulfrost

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

13.01 The Board will review and discuss the Contract for Fagen Friedman and Fulfroft

MOTION #01-02 by President Khanh Tran to table this agenda item until the next regular board meeting. MOTION #01-02 was seconded by Member Esau Herrera.

Public Comment: Jocelyn Merz asked about putting a cap on the contract.

MOTION #01-02 carried with a vote of 3 in favor; 1 opposition (Vice-President Andrés Quintero); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

13.02 Termination of the Mathson Fire Emergency

President Khanh Tran reported that there was nothing to report at this time and no other action was taken.

13.03 Legal Counsel Annual Budget Expenditure not to Exceed \$350,000

MOTION #01-03 by Member Esau Ruiz Herrera to table this agenda item to a future meeting. MOTION #01-03 was seconded by President Khanh Tran.

MOTION #01-03 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

13.04 Possible Termination of Rehon & Roberts Contract

MOTION #01-04 by President Khanh Tran to table this agenda item. There was no second made. MOTION #01-04 dies.

MOTION #01-05 by Vice-President Andrés Quintero to not accept this agenda item and let it die. MOTION #01-05 was seconded by Member Karen Martinez.

Public Comments:

- 1) Andrea Flores Shelton - Community Member, requested a full disclosure of legal expenditures for the years of 2015, 2016, and June 2017. Wants to know how much money is going into legal counsel, this is something that needs to be transparent with the community.
- 2) Luis Saenz – Legal Counsel confirmed with Superintendent Hilaria Bauer that she was legally required to accept this request as a Public Records Request.
- 3) Janet (no last name given) – Community member asked the Board if all the “tabled” items would be moved to the “special sessions”? President Khanh Tran replied with a “no, to the next regular session”.

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

13.04 Possible Termination of Rehon & Roberts Contract

MOTION #01-05 dies with a vote of 2 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and 2 abstentions (President Khanh Tran and Member Esau Ruiz Herrera).

13.05 Update on the Board's Request for a Facilities Assessment

Member Karen Martinez stated that she has had several conversations back and forth on this subject and she has been working together with Assistant Superintendent Kolvira Chheng. Trustee Karen Martinez stated that she needs to better understand where we are currently at with our facilities. She commented that she is aware that we are continuing to spend and she wants to be sure that the spending fits in with the priorities.

Assistant Superintendent Kolvira Chheng commented that he needs more specific direction on what it is we are looking for. Trustee Karen Martinez reported that she wants to know how much of the work has already been accomplished. She wants to make sure that when she is making decisions or voting, that she is doing so to the best of her ability. She wants to know where we are on Measures I and J. For example, she wants to know how LUCHA was chosen for some of the work projects over Ryan – how were the priorities prioritized?

Public Comment:

- 1) Ray Mueller – COC Chair commented that he really appreciates her request. The COC has requested this in the past and received nothing.

Member Esau Ruiz Herrera commented that he fully supports Member Karen Martinez' request for the facilities assessment inquiry that she has made on numerous occasions. Member Karen Martinez asked for an extensive assessment which would include roofing, heating and cooling, electrical and plumbing.

Assistant Superintendent Kolvira Chheng stated that he would have a report ready for her at the next regular board meeting.

13.06 Board Retreat Update

Member Karen Martinez would like for the Board to work to schedule a Board Retreat for the near future. President Khanh Tran suggested to wait until the entire Board was present. Member Karen Martinez asked Marie Sanchez to start polling the Board and bring back possible dates at the next regular board meeting.

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

13.07 The Appropriate Roles of the Board

Member Karen Martinez asked that Legal Counsel step up to the podium since she would be needing their expertise around this topic. She asked Legal Counsel to clarify what were the roles of the President, Vice-President, and Clerk.

Attorney Luis Saenz reported that the Board acts as a collective team...each one of the Board Members has no particular authority and cannot offer directives to staff or act as though they are one authority unless the Board as a whole has chosen one member to represent the Board as a whole. Attorney Luis Saenz reminded the Board that when the Board makes any public statements, the Board needs to state if they are speaking on behalf of themselves or on behalf of the entire Board.

Attorney Luis Saenz reported that the main difference with the Board President, is that the Board President and the Superintendent work alongside in putting the agenda together, they decide on Closed Session, action item(s), etc. The Board President and the Superintendent decide on what items are going to be placed on the board agenda and what kind of action is to be taken on each agenda item (example: information, discussion, or action).

Public Comment:

- 1) Alison Cingolani – Community Member that read from the Board Bylaws, some of the roles and responsibilities of each of the officer positions for Board Members.

13.08 Reconstitute the Bond, Facilities, and Finance Committee

President Khanh Tran recommended to table this agenda item until the Bond, Facilities, and Finance Committee Chair could be present. Vice-President Andrés Quintero commented that he would like this committee to be moved like the COC where it is not held in the middle of the day, but during a time in the evening when people can attend the meeting. He also commented that he would like this agenda item to return back as an “action item”. The Board was in consensus to accept President Tran’s recommendation.

13.09 Reprioritization of Alum Rock Union Elementary School District’s Bond Projects

Vice-President Andrés Quintero stated that he asked to place this item on the agenda so that we can consider reprioritization of our buildings. President Khanh Tran commented that we are missing one board member and she’s also the Bond Chair. He is recommending to table this item until the absent Board Member can be present. Member Karen Martinez also asked if this agenda item could be brought back to the next meeting as a discussion/action item. President Khanh Tran replied that he was not going to make this decision at this time.

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

13.10 Program and Construction Management Agreement for Measure I

Vice-President Andrés Quintero stated that he had accepted this contract a while back and now he wants to come to some solution and make it right.

Vice-President Andrés Quintero commented that he had asked the Board President to place ***Agenda Items 13.10, 13.11, and 13.12 on the agenda as discussion/action.*** These items consist of the following:

13.11 Construction Management Agreement, Measure J

13.12 Program Management Agreement, Measure J

Vice-President Andrés Quintero reported that unfortunately, his requested items came on as only for discussion.

MOTION #01-06 by Vice-President Andrés Quintero to bring back to the next regular board meeting, Agenda Items 13.10, 13.11, and 13.12 as stated above for discussion and action. MOTION #01-06 was seconded by Member Karen Martinez.

- 1) Speaker (no name given) – Speaker stated that they felt it was important that a School Board be reminded of their role. First and foremost, the School Board should look out for their students; the Board should be accessible to the public and be on the lookout for the schools. The Board should have a high level of respect, trust, and work as a team.

MOTION #01-06 dies with a vote of 2 in favor (Vice-President Andrés Quintero and Member Karen Martinez); no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and 2 abstentions (Member Esau Ruiz Herrera and President Khanh Tran).

13.13 Policy to Address the Media Issue Accessing Student Classrooms and Staff

President Khanh Tran requested to table this agenda item until the next regular board meeting. The Board was in consensus to accept his request.

13.14 2017-18 Annual Santa Clara County School Boards Association Membership Dues, \$600

MOTION #01-07 by Vice-President Andrés Quintero to accept and approve the SCCSBA Membership Dues for \$600 as presented. MOTION #01-07 was seconded by Member Esau Ruiz Herrera.

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

**13.14 2017-18 Annual Santa Clara County School Boards Association
Membership Dues \$600**

***MOTION #01-07 carried with a vote of 4 in favor; no opposition; 1 absent
(Clerk Dolores Marquez-Frausto); and no abstention.***

Vice-President Andrés Quintero asked to approve the following agenda items with one motion:

**13.15 2017-18 CSBA Manual Maintenance Plus, Period from July 1, 2017
thru June 30, 2018, \$3,765**

**13.16 2017-18 CSBA Gamut Online, Period from July 1, 2017 thru
June 30, 2018, \$3,405**

**13.17 2017-18 CSBA Membership Dues, Period from July 1, 2017 thru
June 30, 2018, \$13,071**

**13.18 2017-18 CSBA Education Legal Alliance Membership Dues,
Period from July 1, 2017 thru June 30, 2018, \$3,268**

MOTION #01-08 by President Khanh Tran to extend the meeting until 11:15 p.m. to finish the remainder of board business. MOTION #01-08 was seconded by Member Karen Martinez.

MOTION #01-08 carried with a vote of 3 in favor; 1 opposition (Member Esau Ruiz Herrera); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

MOTION #01-09 by Vice-President Andrés Quintero to accept and approve Agenda Items 13.15-13.18 as listed above. There was no second made to this motion.

Member Esau Ruiz Herrera gave a brief summary of history with CSBA a few years ago. He stated that Alum Rock pays 2-3 times more in membership dues than someone like Saratoga or Mountain View and yet we only get one vote and they get one vote. He stated that that's why in the past, we have waited to pay the dues until the final minute which is a small way to make a symbolic statement and say...we are going to wait until the last minute!

Member Karen Martinez commented that she completely agrees with Member Esau Ruiz Herrera.

Member Esau Ruiz Herrera purposed to modify and amend this item and invite CSBA to come to one of our board meetings to present on this item.

13. SUPERINTENDENT / BOARD BUSINESS *(continued)*

13.15 2017-18 CSBA Manual Maintenance Plus, Period from July 1, 2017 thru June 30, 2018, \$3,765

13.16 2017-18 CSBA Gamut Online, Period from July 1, 2017 thru June 30, 2018, \$3,405

13.17 2017-18 CSBA Membership Dues, Period from July 1, 2017 thru June 30, 2018, \$13,071

13.18 2017-18 CSBA Education Legal Alliance Membership Dues, Period from July 1, 2017 thru June 30, 2018, \$3,268

Vice-President Andrés Quintero stated that for the purpose of moving forward, he was willing to amend his motion.

A Friendly Amendment was made to MOTION #01-09 by Vice-President Andrés Quintero to approve Agenda Items 13.15-13.18, but excluding Agenda Item 13.17. MOTION #01-09 was seconded by Member Karen Martinez.

MOTION #01-09 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

Member Esau Ruiz Herrera stated that he was requesting to invite the CSBA Statewide Regional Director to present at one of our board meetings and not the CSBA Regional Director.

8. INSTRUCTIONAL SERVICES

8.01 Approve Consolidated Application and Reporting System (CARS) 2015-16 Reporting and 2017-18 Application for Funding

MOTION #01-10 by Vice-President Andrés Quintero to accept and approve the Consolidated Application and Reporting System (CARS) as presented. MOTION #01-10 was seconded by Member Esau Ruiz Herrera.

MOTION #01-10 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

8.02 Local Control Accountability Plan (LCAP) 2017-18 – Aptitud Community Academy

President Khanh Tran tabled this agenda item. There was consensus from the Board to table this agenda item.

9. HUMAN RESOURCES

9.01 Information Regarding Resignations

President Khanh Tran tabled this agenda item. There was consensus from the Board to table this agenda item.

9.02 Approval and Ratification of Tentative Agreement between the Alum Rock Union Elementary School District and the California School Employees Association (CSEA)

MOTION #01-11 by Vice-President Andrés Quintero to accept and approve the CSEA Ratification of Tentative Agreement between ARUSD and CSEA as presented. MOTION #01-11 was seconded by Member Esau Ruiz Herrera.

MOTION #01-11 was carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

President Khanh Tran closed the Public Hearing at 10:36 p.m. There were no speakers from the audience at this time.

9.03 Approval of Unrepresented Management/Supervisory/Confidential Employees 2017-18 Salary Schedules 4% Raise effective July 1, 2017

MOTION #01-12 by Vice-President Andrés Quintero to approve the 4% Raise to the Unrepresented Management/Supervisory/Confidential Employees effective July 1, 2017. MOTION #01-12 was seconded by Member Karen Martinez.

MOTION #01-12 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10. CONTRACTS OVER \$100,000

10.01 Bay Area School Nutrition Cooperative (BASNC) Request for Proposal (RFP) CNS-01-18 for Food and Nutrition Products, Paper Supplies, and Delivery Services

MOTION #01-13 by Vice-President Andrés Quintero to accept and approve the Bay Area School Nutrition Cooperative Request for Proposal for Food and Nutrition Products, Paper Supplies, and Delivery Services as presented. MOTION #01-13 was seconded by Member Karen Martinez.

MOTION #01-13 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention

10. CONTRACTS OVER \$100,000 (continued)

10.02 Assignment of United States Department of Agriculture (USDA) Commodities for 2017-18, \$1,500,000

MOTION #01-14 by Vice-President Andrés Quintero to accept and approve the Assignment of United States Department of Agriculture Commodities as presented. MOTION #01-14 was seconded by Member Esau Ruiz Herrera.

MOTION #01-14 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10.03 Approve Contract with RO Health, Inc., Student Services, \$200,000

Public Comment:

- 1) Jocelyn Merz: AREA President that asked the Board not to approve this contract – it is basically contracting out for the nurse position for two years. She reminded the Board that AREA would be filing an unfair compliance charge if they do not get this resolved.

President Khanh Tran reported that he would be tabling this agenda item for a future board meeting. The Board was in consensus to table due to lack of time.

10.04 Approve Contract with Achieve School, Special Education, \$210,429.65

MOTION #01-15 by Vice-President Andrés Quintero to approve the Achieve School Contract as presented. MOTION #01-15 was seconded by Member Karen Martinez.

MOTION #01-15 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10.05 Approve ASES Contract with Think Together, State & Federal, \$701,865

MOTION #01-16 by Vice-President Andrés Quintero to approve the ASES Contract with Think Together for \$701,865 as presented. MOTION #01-16 was seconded by Member Karen Martinez.

Board Comment: Trustee Karen Martinez asked that these three programs come and present at least two times a year.

MOTION #01-16 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10. CONTRACTS OVER \$100,000 (continued)

10.06 Approve ASES Contract with Citizen Schools, State & Federal, \$430,553

MOTION #01-17 by Vice-President Andrés Quintero to accept and approve the ASES Contract with Citizen Schools for the amount of \$430,553 as presented. MOTION #01-17 was seconded by Member Karen Martinez.

MOTION #01-17 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10.07 Approve ASES Contract with City Year, San Jose Silicon Valley, State & Federal, \$1,256,832

MOTION #01-18 by Member Karen Martinez to accept and approve the ASES Contract with City Year for \$1,256,832 as presented. MOTION #01-18 was seconded by Vice-President Andrés Quintero and Member Esau Ruiz Herrera.

MOTION #01-18 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10.08 Approve TK & Kinder After School Programs Contract with Think Together, State & Federal, \$577,577

MOTION #01-19 by Vice-President Andrés Quintero to accept and approve the TK & Kinder After School Programs Contract with Think Together for \$577,577. MOTION #01-19 was seconded by Member Esau Ruiz Herrera.

MOTION #01-19 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10.09 Approve Contract Addendum with Durham School Services, Transportation, \$240,800

MOTION #01-20 by Vice-President Andrés Quintero to accept and approve the Contract Addendum with Durham School Services for \$240,800. MOTION #01-20 was seconded by Member Karen Martinez.

MOTION #01-20 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

10. CONTRACTS OVER \$100,000 (continued)

**10.10 Approve Contract with New Tech, Network, Academic Services,
\$254,600**

MOTION #01-21 by President Khanh Tran to accept and approve the Contract with New Tech, Network for the amount of \$254,600 as presented. MOTION #01-21 was seconded by Vice-President Andrés Quintero.

Board Comment: Karen Martinez asked how did the District decide on which school sites to select from?

Public Comments:

- 1) Jackie Montejano – Sheppard Principal stated that her school has been an Avid and Atlas site and they found that they needed professional development and alignment of understanding of what project based learning was and found a new tech network and they did this involving their entire school community. All this is centered around adult learning.
- 2) Dr. Imee Almazan – Fischer Principal stated that her staff has led their planning meetings including the involvement of parents so that they can understand what new tech is.
- 3) Ernesto Bejarano – Sheppard parent who stated that he came from Evergreen School District and is overwhelmed and impressed with Sheppard and the last three years of their work—there is definitely overwhelming support among the Sheppard parents.

MOTION #01-21 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

**10.11 Approve the Contract with Spectrum, Special Education,
\$123,468**

MOTION #01-22 by Vice-President Andrés Quintero to accept and approve the Contract with Spectrum for the amount of \$123,468.

MOTION #01-22 carried with a vote of 4 in favor; no opposition; 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

**10.12 Approve Contract Increase of \$150,000 with Mohawk Commercial,
MOT, \$150,000**

MOTION #01-23 by Vice-President Andrés Quintero to accept and approve the Contract Increase with Mohawk Commercial for the amount of \$150,000. MOTION #01-23 was seconded by Member Esau Ruiz Herrera.

10. CONTRACTS OVER \$100,000 (continued)

10.12 Approve Contract Increase of \$150,000 with Mohawk Commercial, MOT, \$150,000

Board Comments: Karen Martinez, Khanh Tran, and Esau Ruiz Herrera.

Public Comment: Kolvira Chheng.

MOTION #01-23 carried with a vote of 3 in favor; 1 opposition (President Khanh Tran); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

11. BUSINESS SERVICES

11.01 Small Business Outreach and Information

President Khanh Tran reported that due to lack of time, this agenda item would be brought back to a future board meeting. There was consensus from the Board. Vice-President Andrés Quintero stated that he looked forward to hearing a more thorough report from staff.

12. BOND / FACILITIES

12.01 Presentation/Update on Bond/Facilities

Luis Rojas, President and CEO of Del Terra, gave an executive summary on the Bond Projects. Projects include the following:

Current Projects

Luis Rojas reported that Del Terra inherited the Hubbard K-8 Expansion Project which was originally planned in October 2016 by the District. The new and revised Scope of Work is to install 9 additional modular buildings to accommodate the K-8 Expansion of the campus. Scope of work includes, but is not limited to site work, site excavation, underground utilities, new parking lot, new accessible routes, nine new classroom portables, architectural, structural, electrical, plumbing, low voltage data and new fire alarm installations.

Luis Rojas reported that the project is in construction. There was soil problems which have been resolved and work is moving forward. Shade structure area is in progress. Currently working to install rebar cages for the pier footings. The portable concrete pads are poured at all locations. AMS has delivered portable units (classroom buildings) to the site and are scheduled to set in place on July 18, 2017. Work in the parking lot area continues and the City is still reviewing the offsite curb cut plans. The City must approve them before work may begin.

12. BOND / FACILITIES *(continued)*

12.01 Presentation/Update on Bond/Facilities

New HVAC Projects

Luis Rojas reported that Dorsa and LUCHA Scope of Work is to install new HVAC within classrooms at the sites. Work is to commence this summer, mid-June and anticipated completion is August 2017. Dorsa work is continuing to move forward. The asbestos/demolition work continues and is about five days behind schedule. The contractor's contingency plan includes overtime work during the week. They are also performing supplemental work to achieve the proper manpower for demolition, including working on Saturdays and Sundays to make up days. Work and equipment installation has begun in other areas of the site/buildings, which helps advance schedule forward. Contractor should be back on schedule by early next week.

LUCHA

Luis Rojas reported that work has been in progress and continues moving forward. Asbestos & demolition work is almost complete. Contractor is moving forward in all areas with equipment installation; project is currently on schedule and there are no impediments.

Upcoming Projects

Multi-Purpose School Community Center (MPSCC) Fischer MS Project Construction Budget: \$10.3M

Luis Rojas reported that the actual bid is under budget \$9,864,000. Project savings of \$436,000 went to bid and results are as follows: 1) Beals Martin No Bid 2596 Bay Road, Redwood City; 2) BHM Construction, Inc. No Bid 221 Gateway Road West, Ste 405, Napa; 3) D.L. Falk Construction, Inc. \$9,864,000, 3526 Investment Blvd., Hayward; 4) Fast-Track Construction \$12,424,000, 5711 W. Slauson Ave, Ste 170, Culver City; 5) Gonsalves & Stronk Construction Co. Inc. \$10,387,000 1000 Washington St., San Carlos; 6) Roebbelen Contracting, Inc. No Bid 1241 Hawks Flight Court, El Dorado Hills; 7) Strawn Construction, Inc. \$ 10,511,000 1140 Pedro St., Ste 1, San Jose; 8) Thompson Builders Corp. No Bid 250 Bel Marin Keys Blvd., Bldg A, Novato; and 9) Vila Construction Co. \$10,728,710 590 South 33rd Street, Richmond. Luis Rojas stated the average bid value was \$10,782,940; the high bid was \$12,424,000; and the low bid was \$9,864,000. The bid is under budget by \$436,000.

12. BOND / FACILITIES (continued)

12.01 Presentation/Update on Bond/Facilities

Mathson Restroom Modernization (Upgrade and ADA Accessibility) Project

Luis Rojas reported that the Restroom project include 8 restrooms for both staff and students, bid at \$830,000. Work scope includes, but not limited to selective demolition and abatement, removal of floor and wall tile, removal of water closets and urinals, including the removal of sinks, installing new gypboard, installing new wall tile and new epoxy flooring, interior painting, minimal architectural work scopes, electrical work and an updated fire alarm system. Work commenced June, project continues to move forward. The contractor has continued moving forward on the District requested change order at the nurse station restroom. The work continues forward in all buildings, including the unforeseen and existing condition changes that are required to bring those areas up to code. Luis Rojas reported that the contractor claims it will not impede the overall schedule; however, additional costs have been generated.

ARUESD Roofing Projects at Various Sites

Luis Rojas reported that the District requested Del Terra to assist with some of the various roofing projects throughout the District:

- Del Terra was assigned to bid all five projects and oversee only Russo and the LUCHA roofing projects
- District will oversee Mathson roofing repairs, District Office walkway, maintenance buildings and the KIPP roofing project

Luis Rojas reported that the work scope includes, but is not limited to removal and demolition of old existing roofing material, removal of old existing gutters, existing roof metal edging, and the installation of new roofing material, installing new metal drip edge, installing new gutters and limited painting for the exposed metal edge trim.

Russo/McEntee

Luis Rojas reported that the majority of work is complete and currently trying to schedule the Punchlist Walk with the Roofing Contractor and The Garland Company.

LUCHA

Luis Rojas reported that the demolition of the existing roofing material is complete on one of the buildings and work and the installation of substrate roofing material have begun. Demolition of the other building is attentively scheduled for early next week.

12. BOND / FACILITIES *(continued)*

12.01 Presentation/Update on Bond/Facilities

Upcoming Projects

Mathson Multi-Purpose Building (old MACSA) Renovation Project

Luis Rojas reported the bidding process included public solicitation and advertisement through the District and Del Terra reached out to contractors on the District's approved vendor list. The project went to public bid and a contractor was selected within the estimated value of \$6,000,000. The apparent low bidder notified the District its desire to withdraw its bid and the District granted contractor's withdrawal, and rejected all other bids. The District will rebid this project.

Facility improvements and repairs are as follows: • Roofing • Electrical Upgrades • HVAC units are to be replaced • Painting • Landscaping • Building modifications • Create new Access Road & Drop-Off areas • New Signage Re-bid Advertisement on hold until District direction. HVAC district-wide assessment for future HVAC school repairs. Mr. Luis Rojas reported that the District stated MOT Director has been working on district-wide HVAC assessment for past several months. Assessment is completed and a report will be provided to the board in the near future. Del Terra has stated to the District, a re-evaluation of project priorities is recommended to determine if more school sites should have new HVAC installed in summer 2018 vs. other approved projects. The District will provide direction on Del Terra's recommendation.

George MS Project Construction Budget: \$10.0M (50 Stall Parking Lot included)

Luis Rojas reported that the project is in Design Development, the plans are 25% complete and recently delivered to Del Terra. Design review shall commence. A set of plans will be provided to the District for review and comment. The architect estimates that full set of plans should be available by late summer. Submittal to DSA will follow subsequently.

Public Comments:

- 1) Luis Rojas – Del Terra President
- 2) Kolvira Chheng – Assistant Superintendent of Business Services
- 3) Camille Fontanilla – SOMOS Community Member spoke about the 'fake news' comments made by President Tran
- 4) Ray Mueller – COC Chair asked to see all reports

Board Comment: Karen Martinez.

12. BOND / FACILITIES *(continued)*

12.02 Citizen's Bond Oversight Committee (CBOC) Appointment

MOTION #01-24 by Vice-President Andrés Quintero to accept and approve the CBOC appointment as presented. MOTION #01-14 was seconded by Member Esau Ruiz Herrera.

MOTION #01-24 carried with a vote of 4 in favor; 1 opposition (President Khanh Tran); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

12.03 Award of Bid Package and Contract for #B1617-BOND013 New Fischer Multi-Purpose Building Project

MOTION #01-25 by Member Esau Ruiz Herrera to accept and approve the Award Bid Package and Contract for New Fischer Multi-Purpose Building Project as presented. MOTION #01-25 was seconded by President Khanh Tran.

Public Comment: Luis Rojas.

Board Comment: Andrés Quintero, Esau Ruiz Herrera, Khanh Tran, and Karen Martinez.

The Board had dialogue on this agenda item and the maker of the motion and the maker of the second were in agreement to change their motion.

MOTION #01-26 by Member Esau Ruiz Herrera to table this agenda item until the next regular board meeting. MOTION #01-26 was seconded by President Khanh Tran.

MOTION #01-26 dies with a vote of 2 in favor (Esau Ruiz Herrera and Khanh Tran); 2 in opposition (Andrés Quintero and Karen Martinez); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

The Board had additional dialogue on this agenda item.

MOTION #01-27 to accept and approve the Award Bid Package and Contract for New Fischer Multi-Purpose Building Project as presented. MOTION #01-27 was seconded by President Khanh Tran.

MOTION #01-27 dies with a vote of 2 in favor (Esau Ruiz Herrera and Khanh Tran); 2 in opposition (Andrés Quintero and Karen Martinez); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.

12. BOND / FACILITIES *(continued)*

12.04 Approve Contract with Inspectacon Corporation, Bonds Dept., \$275,200

MOTION #01-28 by Member Esau Ruiz Herrera to table this agenda item until the next regular board meeting. **MOTION #01-28** was seconded by President Khanh Tran.

***MOTION #01-28** dies with a vote of 2 in favor (Esau Ruiz Herrera and Khanh Tran); 2 in opposition (Andrés Quintero and Karen Martinez); 1 absent (Clerk Dolores Marquez-Frausto); and no abstention.*

14. CONSENT CALENDAR

Superintendent Hilaria Bauer asked to pull **Agenda Item 14.03, Contract for Atkinson Legal Law Firm, \$30,000** because she felt it was not ready yet.

MOTION #01-29 by Vice-President Andrés Quintero to accept the Consent Calendar as amended. **MOTION #01-29** was seconded by Member Karen Martinez.

***MOTION #01-29** carried with a vote of 4 in favor; no opposition; 1 absent Dolores Marquez-Frausto; and no abstention.*

15. FUTURE BOARD AGENDA REQUESTS

15.01 Requests from Board of Trustees and/or from the Public

There were no agenda items at this time.

16. ADJOURNMENT

16.01 President Adjourns the Meeting

President Khanh Tran adjourned the meeting at 11:25 p.m.

Respectfully submitted,


Dolores Marquez-Frausto
Board Clerk
HB/mcs